

**SIXTY-FOURTH DAY**

(Continued)

(Tuesday, May 9, 1939)

The Senate met at 10:00 o'clock a. m. and was called to order by the President.

**Senate Bill 305 on Second Reading**

On motion of Senator Shivers and by unanimous consent, the regular order of business was suspended to permit consideration of S. B. No. 305 at this time.

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 305, A bill to be entitled "An Act making an appropriation of Nine Thousand Five Hundred (\$9,500.00) Dollars to be used by the Attorney General of Texas for the purpose of paying expenses and costs in enforcing the laws of Texas against trusts, monopolies, and restraints of trade, including the pending suit against various cement manufacturers, providing for the approval of vouchers against said appropriation, and declaring an emergency."

The bill was read second time and was passed to engrossment.

**Senate Bill 305 on Third Reading**

Senator Shivers moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 305 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Metcalf
Beck	Moffett
Brownlee	Moore
Burns	Nelson
Collie	Pace
Cotten	Redditt
Graves	Roberts
Hardin	Shivers
Head	Small
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Stone
Lemens	of Washington
Martin	Sulak

Van Zandt  
Weinert

Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—31

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

**House Bill 456 on Second Reading**

Senator Metcalfe moved that the regular order of business be suspended to permit consideration of H. B. No. 456 at this time.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moffett
Beck	Moore
Brownlee	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield

Nays—1

Spears

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 456, A bill to be entitled "An Act amending Article 7345, Chapter 10, Title 122, Revised Civil

Statutes of the State of Texas, of 1925 as amended by Acts of the Forty-third Legislature, First Called Session, 1933, page 271, Chapter 98, as amended by Acts of the Forty-fourth Legislature, 1935, page 415, Chapter 165, Section 1, as amended by Senate Bill No. 477, Acts of the Forty-fifth Legislature, 1937, as amended by House Bill No. 456, Acts of the Forty-fifth Legislature, 1937, by adding thereto a new Article to be numbered 7345 d, conferring on Commissioners' Courts the power to reopen and reconsider any assessment for taxes, whether on the rendered or unrendered rolls, and whether current or delinquent upon the application of the owner of such property, or his duly authorized agent, when the assessment is alleged to be discriminatory, or the property rendered for more than its true taxable value, or where said property has greatly depreciated in value, or where by reason of the accumulation of taxes, penalties, interest and costs, enforced collection would be inequitable or confiscatory; etc., and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 456 on Third Reading

Senator Metcalfe moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 456 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—29

Aikin	Moffett
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Stone
Head	of Galveston
Hill	Stone
Isbell	of Washington
Kelley	Sulak
Lanning	Van Zandt
Lemens	Weinert
Martin	Winfield
Metcalfe	

#### Nays—2

Moore	Spears
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The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—25

Aikin	Moffett
Beck	Redditt
Burns	Roberts
Collie	Shivers
Graves	Small
Hardin	Stone
Head	of Galveston
Hill	Stone
Isbell	of Washington
Kelley	Sulak
Lanning	Van Zandt
Lemens	Weinert
Martin	Winfield
Metcalfe	

#### Nays—6

Brownlee	Nelson
Cotten	Pace
Moore	Spears

#### House Bill 108 on Second Reading

Senator Van Zandt moved that the regular order of business be suspended to permit consideration of H. B. No. 108 at this time.

The motion prevailed by the following vote:

#### Yeas—28

Aikin	Moffett
Beck	Moore
Brownlee	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Van Zandt
Martin	Weinert
Metcalfe	Winfield

#### Nays—3

Hill	Sulak
Spears	

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 108, A bill to be entitled "An Act conferring and relinquishing

to the Supreme Court full rule-making power in Civil Judicial proceedings, repealing all laws and parts of laws governing practice and procedure in civil actions, such repeal effective on and after January 1, 1940, providing that no substantive law or part thereof is thereby repealed; authorizing and empowering the Supreme Court by general order to continue such statutes in force as rules of the Court; investing the Supreme Court with full rule-making power and fixing the time for such to become effective, and declaring an emergency."

The bill was read second time.

Senator Van Zandt offered the following amendment to the bill:

Amend the bill by striking out all after the enacting clause and inserting the following:

Section 1. In order to confer upon and relinquish to the Supreme Court of the State of Texas full rule-making power in civil judicial proceedings, all laws and parts of laws governing the practice and procedure in civil actions are hereby repealed, such repeal to be effective on and after January 1, 1940. Provided, however, that no substantive law or part thereof is hereby repealed.

Sec. 2. The Supreme Court is hereby authorized and empowered by general order on or before January 1, 1945, to continue in force as rules of court from and after January 1, 1945, all laws and parts of laws repealed by Section 1 of this Act.

Sec. 3. On and after January 1, 1945, the Supreme Court is hereby invested with the full rule-making power in the practice and procedure in civil actions. Such rules shall not abridge, enlarge or modify the substantive rights of any litigant. Rules of the Supreme Court to be effective must upon promulgation be filed with the clerk or entered upon the minutes of that Court, and shall be effective on and after thirty days from the date of such filing, unless the Supreme Court by order shall fix a later date, or, in case of an emergency deemed sufficient by the Supreme Court, an earlier date.

Sec. 4. Such rules shall be published in the official reports of the Supreme Court; and the Supreme Court is authorized to adopt such method as it may deem expedient for

the printing and distributing of such rules.

Sec. 5. The fact that the rules of practice and procedure in the Civil Courts, as prescribed by legislative enactment, often result in much unnecessary delay to litigants and in great and unnecessary expense to litigants and to the State, and in unnecessary reversals and new trials upon technical procedural grounds, with consequent further delay and expense; and as a result the Courts are subjected to criticism calculated to weaken and undermine in the public estimate their prestige so essential to the stability of our Democratic form of government; and that it is essential to place the rule-making power in civil actions in the Supreme Court, whose knowledge, experience and intimate contact with the problems of judicial administration render that Court particularly qualified to mitigate and cure these evils, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted.

The bill was passed to third reading.

#### House Bill 108 on Third Reading

Senator Van Zandt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 108 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin  
Beck  
Brownlee  
Burns  
Collie  
Cotten  
Graves  
Hardin  
Head  
Hill  
Isbell  
Kelley  
Lanning  
Lemens

Martin  
Metcalf  
Moffett  
Moore  
Nelson  
Pace  
Redditt  
Roberts  
Shivers  
Small  
Spears  
Stone  
of Galveston

Stone  
of Washington  
Sulak

Van Zandt  
Weinert  
Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### House Bill 1038 on Second Reading

On motion of Senator Roberts and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1038 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1038, A bill to be entitled "An Act appropriating Twelve Thousand (\$12,000.00) Dollars, or so much thereof as may be necessary for the month of June, 1939, and Twenty-one Thousand (\$21,000.00) Dollars, or so much thereof as may be necessary, for the month of July, 1939, and Twenty-one Thousand (\$21,000.00) Dollars, or so much thereof as may be necessary, for the month of August, 1939, out of any monies in the Treasury not otherwise appropriated, to defray the administrative expenses of the Texas Relief Commission incurred in connection with the distribution of surplus commodities, the investigation and certification of clients to Works Progress Administration, Civilian Conservation Corps, and National Youth Administration, the administration and liquidation of Federal programs in Texas, and the performance of the duties imposed by law upon such Texas Relief Commission, and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 1038 on Third Reading

Senator Roberts moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1038 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin  
Beck

Brownlee  
Burns

Collie  
Cotten  
Graves  
Hardin  
Head  
Hill  
Isbell  
Kelley  
Lanning  
Lemens  
Martin  
Metcalf  
Moffett  
Moore  
Nelson

Pace  
Redditt  
Roberts  
Shivers  
Small  
Spears  
Stone  
of Galveston  
Stone  
of Washington  
Sulak  
Van Zandt  
Weinert  
Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin  
Beck  
Brownlee  
Burns  
Collie  
Cotten  
Graves  
Hardin  
Head  
Hill  
Isbell  
Kelley  
Lanning  
Lemens  
Martin  
Metcalf

Moffett  
Nelson  
Pace  
Redditt  
Roberts  
Shivers  
Small  
Spears  
Stone  
of Galveston  
Stone  
of Washington  
Sulak  
Van Zandt  
Winfield

Nays—2

Moore

Weinert

#### House Joint Resolution 8 on Second Reading

On motion of Senator Martin and by unanimous consent, the regular order of business was suspended to permit consideration of H. J. R. No. 8 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. J. R. No. 8, Proposing an amendment to the Constitution of the State of Texas, to be known as Section 30b of Article 16, providing that the Legislature may enact laws creating Civil Service for State, county and municipal employees, providing rules and regulations therefor, and further providing that the limitation of the duration of office to two (2) years shall not

apply to State, county or municipal Civil Service employees.

The resolution was read second time and was passed to third reading.

### House Joint Resolution 8 on Third Reading

Senator Martin moved that the Senate rule requiring joint resolutions to be read on three several days be suspended and that H. J. R. No. 8 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

The President then laid the resolution before the Senate on its third reading and final passage.

The resolution was read third time and was passed by the following vote:

Yeas—31

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

Senator Moore moved to reconsider

the vote by which the resolution was passed.

The motion to reconsider prevailed.

Question—Shall the resolution be passed?

On motion of Senator Moore, the resolution was tabled subject to call.

### Reports of Standing Committees

By unanimous consent, the following reports were submitted by the chairmen of the respective committees to which the bills reported were referred:

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

H. B. No. 50, A bill to be entitled "An Act providing for licensing of operators, commercial operators and chauffeurs; defining certain terms; providing for certain exemptions; prohibiting issuance of licenses to certain persons; providing special restrictions on drivers of school buses and public or common carrier, motor vehicles; providing for signing of applications of minors and cancellation of minor's license upon request of person signing application or upon death of such person; providing for examination of applicants; providing for form of license; providing for restrictions to be imposed by the Department on good cause; providing for suspension or revocation upon violation of restrictions; making violation a misdemeanor; . . . etc.; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be not printed.

BROWNLEE, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 1051, by Wilson, A bill to be entitled "An Act granting permission to W. V. Guthrie, etc., to bring

suit against the State of Texas, and the State Highway Commission of Texas in any Court of competent jurisdiction, etc.; said suit shall be tried according to the rules of law and equity and procedure as would be applicable if the suit were one for the recovery of compensation insurance by any citizen against the State Highway Commission of Texas if the said State Highway Commission of Texas had complied with all the requirements of Article 6674s of the Revised Civil Statutes of the State of Texas, etc.,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 1047, by Wilson, A bill to be entitled "An Act granting permission to W. E. Gorham to bring suit against the State of Texas, and the State Highway Commission of Texas in any Court of competent jurisdiction, etc.; said suit to be tried according to the rules of law and equity and procedure as would be applicable if the suit were one for the recovery of compensation insurance by any citizen against the State Highway Commission of Texas if the said State Highway Commission of Texas had complied with all the requirements of Article 6674s of the Revised Civil Statutes of the State of Texas, etc.,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 455, A bill to be entitled "An Act relating to the subject of

bonds, notes and warrants issued by the Board of Regents of the University of Texas, the Board of Directors of the Agricultural and Mechanical College, the Board of Directors of the Texas Technological College, the Board of Regents of the State Teachers Colleges, the Board of Regents of the College of Industrial Arts, and the Board of Directors of the Texas College of Arts and Industries, under Chapter Five, Acts of the Second Called Session of the Forty-third Legislature and amendments thereto, and all other laws, including the validating of the bonds, warrants and notes issued by said Boards, the resolutions and other proceedings authorizing the issuance, and the provisions made for the payment of principal and interest of such bonds, warrants and notes; and making it the duty of said Boards to fix, maintain and collect charges or rates sufficient to pay interest and principal as it accrues and matures on bonds, warrants and notes heretofore or hereafter issued, and for reasonable reserves; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended and be mimeographed.

VAN ZANDT, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 454, A bill to be entitled "An Act validating bonds and other instruments or obligations, and the proceedings in reference thereto, heretofore issued by water control and improvement districts, water improvement districts, irrigation districts, conservation and reclamation districts, drainage districts, levee districts, navigation districts, road districts, school districts, counties, cities, incorporated towns and villages of this State for public works projects or for the funding or refunding of indebtedness theretofore incurred; restricting the application of this Act to instances wherein either loans or grants or both have been made to such public bodies by the United States of America, providing that

the provisions of the Act shall not apply to any proceedings authorizing the issuance of bonds, notes or warrants, or to such securities in litigation instituted prior to the delivery of such securities and pending when the Act becomes effective, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be mimeographed.

VAN ZANDT, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 446, A bill to be entitled "An Act repealing House Bill No. 558, passed by the Forty-sixth Legislature of the State of Texas and making an emergency appropriation out of the General Revenue of the State of Texas for the Secretary of State for the purpose of compiling, editing, indexing, binding and distributing the current laws; making same immediately available; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

ROBERTS, Chairman.

#### Leave of Absence Granted

Senator Isbell was granted leave of absence for the remainder of today on account of important business, on motion of Senator Martin.

#### Senate Bill 19 on Final Passage

Senator Burns moved to call from the table, on its final passage (the bill having been read second time and tabled subject to call on April 17, 1939):

S. B. No. 19, A bill to be entitled "An Act repealing Article 6203, Revised Civil Statutes of 1925, as amended by Chapter 45, Acts of the Forty-first Legislature, First Called Session, Chapter 9, Fourth Called Session of the Forty-first Legislature,

and Chapter 11, Fifth Called Session of the Forty-first Legislature, creating a Board of Pardons and Paroles, fixing their terms of office, providing a method of appointment thereto and authorizing recess appointments; limiting the power of the Governor in the matter or reprieves, commutations of punishment and pardons; providing for one reprieve of not more than thirty (30) days in any capital case, empowering the Governor to revoke paroles and other forms of clemency; fixing the salaries of the members of the Board of Pardons and Paroles and providing for traveling expenses and accommodations, and empowering them to employ a secretary, a state parole supervisor and other employees; providing for the organization of the Board; providing that the chairman shall be elected by the Board; providing for removal of Board members for cause; providing for the maintenance of offices and location of same; etc., and declaring an emergency."

The motion prevailed by the following vote:

#### Yeas—21

Aikin	Metcalf
Beck	Moffett
Brownlee	Moore
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Hill	Van Zandt
Lanning	Weinert
Lemens	

#### Nays—5

Kelley	Stone
Martin	of Galveston
Spears	Winfield

#### Absent

Head	Stone
Nelson	of Washington
	Sulak

#### Absent—Excused

Isbell

The President laid the bill before the Senate on its final passage.

Question—Shall the bill be passed?

#### Invitation Accepted

The President laid before the Senate and had read, a communication

from the House, inviting the members of the Senate to attend a ceremony in the House at 3:00 o'clock p. m., today, on the occasion of decorating the members of the House and Senate who are descendants of Confederate war veterans and who served in the World War.

On motion of Senator Small, the invitation was accepted.

#### Bills Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills:

H. B. No. 166, "An Act providing for the issuance of serial coupon bonds for school purposes; authorizing such bonds to be issued by the Board of Trustees of any city or town located in any county having a population of not less than one hundred and twenty thousand (120,000) and not more than one hundred and thirty-three thousand (133,000) as shown by the last preceding United States Census which has assumed the control of its public free schools, or shall hereafter assume control thereof, where control of such schools is exercised through a Board of Trustees; providing for the calling and holding of election to authorize issuance of such bonds, and the issuance thereof in form and manner authorized in respect of independent school districts proper; providing for the levy and collection of tax necessary for the service of such bonds; providing that such bonds shall be the obligations of the city or town in its capacity as a school district proper and that any limitation in the amount of bonded indebtedness permitted such city or town contained in the charter of such city or town, or in other provision of law, general or special, shall not apply to the issuance of such bonds, vesting the issuance thereof exclusively in the Board of Trustees; repealing all laws and parts of laws, general and special, in conflict herewith; and declaring an emergency."

H. B. No. 544, "An Act validating the organization, creation, annexation, and/or change of boundaries of all school districts in counties having a population of not less than two thousand, seven hundred and fifty (2,750), and not more than two thousand, eight hundred and fifty (2,850),

according to the last preceding Federal Census, including Common School Districts, Independent School Districts, Consolidated School Districts, all County Line School Districts in which the school building is located in such counties having a population of not less than two thousand, seven hundred and fifty (2,750), and not more than two thousand, eight hundred and fifty (2,850), according to the last preceding Federal Census, Rural High school District, and all other School Districts, group or annexations of whole districts or parts of districts, whether created by General or Special Laws or by County Boards of Trustees; . . . etc., and declaring an emergency."

H. B. No. 934, "An Act providing for the consolidation of corporations organized under Subdivision 81 of Article 1302 of the Revised Civil Statutes of 1925, and for the consolidation of such a corporation with similar corporations organized under the laws of the United States or any State or Territory for similar purposes; and providing for the agreement of consolidation and the manner of its approval; and for filing and recording of the articles of consolidation; and providing that nothing hereunder may modify or repeal the laws of this State relating to monopolies or trusts; and providing for the payment of supplemental franchise tax in the event said consolidation shall increase the capital stock over that of the consolidated corporations, and declaring an emergency."

H. B. No. 954, "An Act relating to marks and brands of live stock in Chambers County, requiring that each owner of any live stock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect, have his mark and brand for such stock recorded at the office of the County Clerk of said County; without any cost to owner and providing that such owners shall so record such marks and brands whether heretofore recorded or not and that after the expiration of six (6) months from the taking effect of this Act all records of marks and brands now in existence in Chambers County shall no longer have any force or effect and that after the expiration of six (6) months only the records made after this Act shall be effective and considered the recorded marks and brands in said County; and further providing



that the County Clerk shall publish this Act in some newspaper in general circulation in said County for a period of thirty (30) days, and declaring an emergency."

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolutions:

H. B. No. 686, A bill to be entitled "An Act making an appropriation for the 'Upper Red River Flood Control and Irrigation District'; designating who shall have authority to execute vouchers; limiting the purposes for which the money may be spent, and declaring an emergency."

H. C. R. No. 136, Requesting the State Highway Department to lend certain machinery and implements necessary for road construction in the City of Franklin in Robertson County.

H. C. R. No. 137, Granting Honorable Terry Dickens, Judge of the Eighty-Second Judicial District Court of Texas, permission to leave the State.

Respectfully submitted,  
E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Bill on First Reading

The following bill received from the House today, was laid before the Senate, read first time, and referred to the committee indicated:

H. B. No. 686, to Committee on Finance.

#### House Concurrent Resolutions 136 and 137 Adopted

The following resolutions, received from the House today, were laid before the Senate:

H. C. R. No. 136, Authorizing the State Highway Department to lend certain equipment to the city of Franklin, Texas.

H. C. R. No. 137, Granting Dis-

trict Judge Terry Dickens leave of absence from the State.

The resolutions were read severally; and by unanimous consent, they were each considered immediately and were adopted.

#### Senate Bill 446 on Second Reading

On motion of Senator Hill and by unanimous consent, the regular order of business was suspended to permit consideration of S. B. No. 446 at this time.

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 446, A bill to be entitled "An Act repealing House Bill No. 558 passed by the Forty-sixth Legislature of the State of Texas and making an emergency appropriation out of the General Revenue of the State of Texas for the Secretary of State, for the purpose of compiling, editing, indexing, binding and distributing the current laws; making same immediately available; and declaring an emergency."

The bill was read second time and was passed to engrossment.

#### Senate Bill 446 on Third Reading

Senator Hill moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 446 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

#### Absent—Excused

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalfe	Weinert
Moffett	Winfield

Absent—Excused

Isbell

House Concurrent Resolution 130

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to permit consideration of H. C. R. No. 130 at this time.

The President then laid before the Senate:

H. C. R. No. 130, Granting District Judge C. D. Russell leave of absence from the State.

The resolution was read and was adopted.

Report of Conference Committee on House Bill 194

Senator Spears submitted the following report of the Conference Committee on H. B. No. 194:

Austin, Texas,  
May 5, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House on H. B. No. 194, have met and beg leave to recommend that said H. B. No. 194 be passed in the form hereto attached.

Respectfully submitted,

SPEARS,  
HARDIN,  
KELLEY,  
PACE,

On the part of the Senate.

DEAN,  
KINARD,  
DICKISON,  
MORRIS,

On the part of the House.

H. B. No. 194.

A BILL

TO BE ENTITLED

An Act defining "Barber Board"; authorizing the State Board of Barber Examiners under certain conditions herein set forth to approve agreements fixing minimum prices for barber services; providing for agreements to be submitted by eighty-five (85) per cent of the licensed barbers in any one county of the State; providing the minimum for haircuts shall not exceed forty (40) cents; providing for orders of the Board to remain in effect until replaced by new agreements; providing for the State Board to adopt and enforce rules and orders necessary to administer the Act; providing for the posting of rules or orders; providing for deviation from established minimum by certain barbers; providing for practice and procedure of the Board with respect to investigations; providing for treatment by the Board of violations of this Act; providing for the Board to administer and enforce the provisions of this Act; providing nothing in this Act shall affect any regulation of the State Board of Health or authority now vested in the State Bureau of Labor Statistics; regulating barber schools or barber colleges; providing a penalty for violating the provisions of this Act; providing for refusal to grant a license or for suspension or revocation of licenses by the Board; providing for appeal from action of the Board; providing for the payment of expenses of administration of this Act; providing for fees for permits and placing such fees in a special enforcement fund; providing that the provisions of this Act shall be cumulative; providing a saving clause; repealing all laws in conflict herewith; providing this

Act shall not be construed as an amendment to, nor in any manner repealing, the Anti-trust Laws of this State or the United States; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. As used in this Act, unless otherwise expressly states, or unless the content or subject matter otherwise requires, "Barber Board" or "Board" shall mean the State Board of Barber Examiners.

Sec. 2. Whenever a scale of minimum prices for barber services shall have been agreed upon, signed, and submitted to the State Board of Barber Examiners by organized and representative groups of barbers of at least eighty-five (85) per cent of the licensed barbers in any county of this State, the State Board of Barber Examiners shall have power to approve or disapprove such agreements and to declare and establish within such county, by official order, the minimum prices for any and all work or service usually performed by barber shops.

Sec. 3. All orders of the Board approving schedules of prices to be charged for barber service, as herein provided, shall remain in force and effect unless rescinded, modified, or replaced by a new agreement approved and promulgated by the Board, after being signed and submitted under the procedure provided in Section 2 of this Act.

Sec. 3a. Provided the minimum price so set shall never exceed forty (40) cents per haircut.

Sec. 4. The State Board of Barber Examiners shall adopt and enforce all rules and orders necessary to carry out the provisions of this Act. All rules and orders of the Board shall be printed and posted for public inspection in the office of the Secretary of the Board, including all minimum price agreements which have been approved and promulgated by the Board. Notice shall likewise be mailed to each and every barber shop affected by said rule and/or order.

The posting in the main office of the Secretary of the Board of any rule or order not herein required to be served upon any person shall constitute due and sufficient notice to all persons affected by such rule or order and shall be binding upon them.

Sec. 5. All barbers in business anywhere in the State other than

within the corporate limits, or within two (2) miles thereof, of all cities of one thousand (1,000) or more population according to the last preceding Federal Census shall be allowed to deviate not more than twenty-five (25) per cent from the minimum as established by the barbers of that particular county.

Sec. 6. The practice and procedure of the Board with respect to any investigation authorized by this Act shall be in accordance with rules and regulations to be promulgated by the Board, which shall provide for a reasonable notice to all persons affected by orders to be made by the Board after such investigation, and opportunity to be heard either in person or by counsel, and to introduce testimony in their behalf at any public hearing to be held for the purpose.

For the purpose of such investigation, or any hearing which the Board is authorized or required to conduct, the Board or any member thereof, and its Secretary shall have power to conduct such hearing, administer oaths, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, papers, documents and other evidence. In case of disobedience of any person to comply with the order of the Board, or a subpoena issued by the Board or any of its members or its Secretary, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of any district court of the county in which the person resides, on application of any member of the Board or its Secretary, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of a subpoena issued from such court, or a refusal to testify therein. The sheriff of the county in which such person resides shall serve all orders and subpoenas herein referred to, and each witness who appeared in obedience to subpoena before the Board, or member, or its Secretary, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the district courts of this State, which shall be paid upon presentation of proper vouchers, approved by two (2) members of the Board. No witness subpoenaed at the instance of a party, other than the Board or one of its members, or its Secretary, shall be entitled to compensation unless the Board shall certify that his

testimony was material to the matter investigated.

**Section 6-A. Order Fixing Prices of Barber Work:**

(a) That the Board shall have the power to approve price agreements establishing minimum prices for barber work, signed, and submitted by any organized groups of at least 85% of the barbers of each County, after ascertaining by such investigations, and proofs as the condition permits and requires, that such price agreement is just, and under varying conditions, will best protect the public health and safety by affording a sufficient minimum price for barber work to enable the barbers to furnish modern and healthful services and appliances, so as to minimize the danger to the public health incident to such work.

The Board shall take into consideration all conditions affecting the barber profession in its relation to the public health and safety.

In determining reasonable minimum prices the Board shall take into consideration the necessary costs incurred in the particular County in maintaining a barber shop in a clean, healthful and sanitary condition.

(b) The Board, after making such investigation, shall fix by official order, the minimum price for all work usually performed in a barber shop.

(c) That if the Board after investigation, made either upon its own initiative or upon the complaint of a representative group of barbers, determines that the minimum prices so fixed are insufficient to properly provide healthful services to the public and keep the shops sanitary, then the Board from time to time shall have authority to vary or re-fix the minimum prices for a barber's work in each County, when presented with a new agreement signed and submitted by 85% of the barbers of said County.

**Sec. 7.** The State Board of Barber Examiners shall have the authority to bring an injunction suit in the district court in the county of the residence of the defendant against any person who is violating any provision of the Barber Law or any order of the Barber Board issued by authority of this Act.

**Sec. 8.** The State Board of Barber Examiners is hereby vested with such general powers as are necessary for administering and enforcing this Act; provided, however, that nothing con-

tained in this Act shall be construed to affect the status, force, or operation of any regulations of the State Board of Health or of any local health ordinance or regulation, or to affect the authority now vested in the Bureau of Labor Statistics of the State of Texas.

**Sec. 9.** The provisions of this Act shall apply to and be binding upon all persons to whom, under any other laws of this State, the State Board of Barber Examiners is authorized to issue licenses or certificates or registration, including barbers, barber apprentices, and haircutters in beauty shops and hairdressing establishments, as defined in such laws; provided, however, the provisions of this Act shall not apply to the duly authorized barber schools or barber colleges, except that it shall be unlawful for any approved school or college to charge or allow its students to charge less than one-half the minimum price as approved under the provisions of this Act, and provided that no charge shall be made for service or materials in the beginners' department of any barber school or college.

**Sec. 10.** That a violation of any provision of this Act, or any rule or order of the Board lawfully made pursuant thereto, except as otherwise expressly provided by this Act, shall be a misdemeanor punishable, upon conviction, by a fine of not less than Ten Dollars (\$10) and not exceeding Two Hundred Dollars (\$200), or by imprisonment not exceeding six (6) months, or both such fine and imprisonment, and each day during which such violation shall continue shall be deemed a separate violation.

**Sec. 11.** That the Board may decline to grant a barber's, or haircutter's, or other license, or may suspend or revoke such license if already granted, upon due notice and opportunity of hearing to the applicant or licensee when satisfied that any such person has violated any of the provisions of this Act. Any applicant or licensee considering himself aggrieved by any action of the Board, taken under the provisions of this Act, may, within twenty (20) days after receipt of the order of the Board, take an appeal from the action of the Board to the district court of the county in which such person resides, which court shall have jurisdiction to reverse, vacate, or affirm the order complained of, if such court is of the opinion that such order was unlawful or unreasonable. No proceeding to

vacate or reverse a final order rendered by the Board shall operate to stay the execution or effect thereof, unless the district court or a judge thereof in vacation or in termtime, on application, shall allow such stay, in which event the petitioner shall be required to execute a bond in such sum as the court may prescribe, with sufficient surety to the satisfaction of the court, conditioned for the prompt payment of all damage arising from or caused by the delay in the enforcement of the order complained of.

Any order applying only to a person or persons named therein shall be served by registered mail, return receipt demanded, or by delivery by any authorized inspector, constable, or sheriff.

Sec. 12. That all expenses incidental to the administration of this Act shall be paid from the funds of the State Board of Barber Examiners in the manner and form governing other expenditures of that Board.

Sec. 13. Every licensed barber, barber apprentice, and haircutter practicing in any county of this State in which minimum price agreements are operative under this Act shall procure an annual permit to practice under any such agreement from the State Board of Barber Examiners. The permit shall expire with the expiration of any such agreement and shall not be transferable. The annual fee for permits shall be Two Dollars and Fifty Cents (\$2.50) and shall be paid within thirty (30) days after the approval of any such agreement, and thereafter on or before each anniversary date of the approval by the Board of any such agreement, and upon failure to do so, after ten (10) days' notice in writing, the license of any such person may be suspended, upon order of the Board, until such fee is paid.

All fees collected under this Act shall be placed in the State Treasury to the credit of a special fund to be known as "Special Enforcement Fund," and all of the current revenues derived, to be placed to the credit of said Fund during the two (2) years ending August 31, 1941, are hereby appropriated and shall be used by the State Board of Barber Examiners and under its direction in the enforcement of this Act.

Sec. 14. The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes, the Penal Code, and the Code of Criminal

Procedure of the State of Texas, and the remedies herein provided shall be cumulative of all other remedies in the Civil Statutes, the Penal Code, and the Code of Criminal Procedure of the State of Texas.

Sec. 15. If any article, section, subsection, sentence, clause, or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

Sec. 16. All laws or parts of laws in conflict with any provisions of this Act are hereby expressly repealed.

Sec. 17. Nothing in this Act shall ever be construed as amending, modifying, suspending, or repealing any of the laws of this State defining and prohibiting trusts, monopolies, and conspiracies against trade, with particular reference to Chapter 3, Title 19, Penal Code of this State and Title 126, Revised Civil Statutes of Texas, 1925; and should this Act in any manner conflict with or alter, repeal, change, modify or affect, or attempt to alter, repeal, change, modify or affect the above-mentioned statutes or any sentence, section, clause, phrase or word thereof, this Act shall fall and be held for naught.

Sec. 18. The fact that there is at present no law regulating the minimum prices of barber shops, and the fact that a condition exists in the barber business or profession which is creating an unfair, demoralizing, and uneconomic competition and practice in this State, which is resulting in price cutting to the extent of limiting and preventing barbers from rendering safe and healthful service to the public, and is causing to be created an insanitary condition, create an emergency and an imperative public necessity that the Constitutional Rule requiring all bills to be read on three separate days in each House be and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### Recess

On motion of Senator Roberts, the Senate, at 12:00 o'clock m., took recess to 2:00 o'clock p. m., today.

### Afternoon Session

The Senate met at 2:00 o'clock p. m., and was called to order by the President.

#### Reports of Standing Committees

By unanimous consent, the following reports were submitted by the committee chairmen whose names are signed thereto:

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

H. B. No. 548, A bill to be entitled "An Act to fix the maximum rate of tax to be levied for school purposes in all independent school districts which include within their limits a city which has more than seven thousand, eight hundred and fifty (7,850) population, and fewer than eight thousand (8,000) population, according to the last preceding Federal Census, whether under General or Special Law; etc.; and declaring an emergency,"

Have had the same under consideration, and beg to report back to the Senate that it do pass and be not printed.

AIKIN, Chairman.

Austin, Texas,  
April 27, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

S. B. No. 292, by Nelson, A bill to be entitled "An Act authorizing the County Board of Trustees in counties having a population of not less than five thousand one hundred (5,100) nor more than five thousand two hundred (5,200) as shown by the Federal Census of 1930, to set aside a certain amount of the Available School Fund apportioned to such counties to defray certain expenses in the administration of the scholastic affairs of such counties, repealing all laws and parts of laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recom-

mendation that it do pass and be not printed.

AIKIN, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Agriculture, to whom was referred

S. B. No. 456, A bill to be entitled "An Act providing for the creation of an Agricultural-Horticultural and Dairy Industrialization Commission; providing for the naming of members of said Commission; and providing for their term of office and designating the Chairman of the said Commission; providing for the pay of certain members of said Commission; providing for the selection of Executive Secretary and other employees; defining the powers of said Commission; designating the numbers of petitioners necessary and stating the per cent of the volume of produce such petitioners shall represent; providing for the withdrawal of petitioners from their agreement, and defining the manner for such withdrawal; providing for the continuity of contracts; providing for the right of petition; defining grower; providing for the establishment of rules and regulations by the Commission; providing for the collection of an advertising tax; providing for the use of trademarks and labels; providing for the appointment of collaborating committees, and defining their authority under this Act; providing for the disbursement of funds; providing for the submission of reports to the Governor; providing for the deposit of funds in the State Treasury and the disposal of same by the Comptroller and Treasurer; and providing against the appropriation by the Legislature of any money except that accruing from this Act; providing penalty for the violation of the terms of contract made by virtue of this Act by the Commission against petitioners and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with recommendations that it do pass and be printed.

SULAK, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 791, A bill to be entitled "An Act making it unlawful to take or kill by trap, snare, or deadfall any fur-bearing animals in the Counties of Harrison and Gregg; providing certain exceptions; providing the length of this Act; prescribing a penalty; and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Austin, Texas,  
April 27, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Privileges and Elections, to whom was referred

S. B. No. 343, by Nelson, A bill to be entitled "An Act repealing Section 3 of S. B. No. 157, passed at the Regular Session of the Forty-fourth Legislature; amending Article 2746 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 237, Acts of the Forty-fifth Legislature of Texas, Regular Session; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HARDIN, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 1027, A bill to be entitled "An Act amending Article 2350 of the Revised Civil Statutes of 1925 as amended by the Forty-fifth Legislature so as to add thereto a new Section known as 2350(5), providing for actual and necessary traveling expenses for Commissioners in the conduct of office in certain counties; and providing for source of payment of such expenses and approval thereof; and declaring an emergency,"

Have had the same under consideration and I am instructed to report

it back to the Senate with the recommendation that it do pass and be not printed.

HARDIN, Chairman.

Austin, Texas,  
May 1, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 968, A bill to be entitled "An Act providing for more adequate and equitable salaries for County Superintendents of Public Instruction in all those counties of Texas coming within the brackets and population figures herein, especially in all those counties having not less than twenty thousand, seven hundred and ninety (20,790) and not more than twenty thousand, eight hundred and twenty-five (20,825), according to the last preceding Federal Census; modifying all laws or parts of laws in conflict herewith; making the Act cumulative of the General Law; and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HARDIN, Chairman.

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has concurred in Senate amendments to H. C. R. No. 121 by a viva voce vote.

The House has adopted the conference committee report on S. B. No. 75 by a vote of 114 ayes, 12 noes.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Bill 938 on Second Reading

On motion of Senator Collie and by unanimous consent, the regular

order of business was suspended to permit consideration of H. B. No. 938 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 938, A bill to be entitled "An Act to make it unlawful to take, hunt, trap, shoot or kill any deer and/or wild turkey for a period of three (3) years in Taylor County, Texas; fixing penalties, and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 938 on Third Reading

Senator Collie moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 938 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalfe	Weinert
Moffett	Winfield

Absent—Excused

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Hardin
Beck	Head
Brownlee	Hill
Burns	Kelley
Collie	Lanning
Cotten	Lemens
Graves	Martin

Metcalfe	Spears
Moffett	Stone
Moore	of Galveston
Nelson	Stone
Pace	of Washington
Redditt	Sulak
Roberts	Van Zandt
Shivers	Weinert
Small	Winfield

Absent—Excused

Isbell

#### House Bill 1014 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1014 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1014, A bill to be entitled "An Act providing for a Rural School Music Supervisor in certain counties; prescribing the duties of said Supervisor; prescribing the method of employing the Supervisor; providing for removal of such Supervisor by the County Board of School Trustees on recommendation of the County Superintendent; prescribing manner of fixing and paying salary, and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 1014 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1014 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Martin
Beck	Metcalfe
Brownlee	Moffett
Burns	Moore
Collie	Nelson
Cotten	Pace
Graves	Redditt
Hardin	Roberts
Head	Shivers
Hill	Small
Kelley	Spears
Lanning	Stone
Lemens	of Galveston



Stone  
of Washington  
Sulak

Van Zandt  
Weinert  
Winfield

Absent—Excused

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Isbell

#### House Concurrent Resolution 89

On motion of Senator Pace and by unanimous consent, the regular order of business was suspended to permit consideration of H. C. R. No. 89 at this time.

The President then laid before the Senate:

H. C. R. No. 89, Granting permission to Tilford Moore to sue the State of Texas, and/or State Highway Department.

The resolution was read.

Senator Pace offered the following (committee) amendment to the resolution:

Amend H. C. R. No. 89 by Bailey, by striking out at the end of said resolution the comma and the words, "and it is so resolved" and the period, and inserting in lieu thereof a semicolon and then the following language: "and be it further

"Resolved, That the sole purpose of this resolution is to grant permission to said Tilford Moore to bring

suit against the State of Texas and/or State Highway Department for the above alleged cause of action, and no statement made herein shall be construed as an admission of fact by the State and/or Highway Department."

The amendment was adopted.

The resolution as amended was adopted.

#### Senate Concurrent Resolution 46

On motion of Senator Beck and by unanimous consent, the regular order of business was suspended to permit consideration of S. C. R. No. 46 at this time.

The President then laid before the Senate:

S. C. R. No. 46, Authorizing W. G. Farrier to sue the State.

The resolution was read.

Senator Beck offered the following amendment to the resolution:

Amend S. C. R. No. 46 by Beck, by adding a new paragraph just above the resolving clause as follows:

"However, the sole purpose of this resolution is to grant permission to said W. G. Farrier to bring suit against the State of Texas, the State Highway Department, and the State Highway Commission, and no admission of the liability of the State is made by this resolution, but the facts as set out above shall be subject to proof in the court."

And also amend said resolution by taking the "now, therefore, be it" in the last Whereas clause and put it on at the end of the above inserted paragraph.

The amendment was adopted.

The resolution as amended was adopted.

#### Senate Bill 459 on Second Reading

On motion of Senator Spears and by unanimous consent, the regular order of business was suspended to permit consideration of S. B. No. 459 at this time.

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 459, A bill to be entitled

"An Act authorizing the Commissioners' Court of any county having a population of not less than 290,000, and not more than 320,000, according to the last United States Census, to rent or let to any landowner any tractor, grader, machinery or equipment belonging to said county to be used exclusively upon land belonging to such owner situated in said county, in the construction of terraces, dikes and ditches for the purpose of said conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs and declaring an emergency."

The bill was read second time and was passed to engrossment.

#### Senate Bill 459 on Third Reading

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 459 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

#### Absent—Excused

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—30

Aikin	Cotten
Beck	Graves
Brownlee	Hardin
Burns	Head
Collie	Hill

Kelley	Shivers
Lanning	Small
Lemens	Spears
Martin	Stone
Metcalf	of Galveston
Moffett	Stone
Moore	of Washington
Nelson	Sulak
Pace	Van Zandt
Redditt	Weinert
Roberts	Winfield

#### Absent—Excused

Isbell

#### House Bill 1028 on Second Reading

On motion of Senator Stone of Washington and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1028 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1028, A bill to be entitled "An Act providing that certain independent school districts in certain counties shall remain independent school districts for all purposes regardless of decrease in scholastic population, and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 1028 on Third Reading

Senator Stone of Washington moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1028 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

## Absent—Excused

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

## Absent—Excused

Isbell

## House Bill 996 on Second Reading

On motion of Senator Metcalfe and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 996 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 996, A bill to be entitled "An Act applicable to the County of Kimble, State of Texas, providing the method for taking fish from the public waters of Kimble County, Texas; providing the daily bag limit of fish; providing for a closed season, and declaring an emergency."

The bill was read second time and was passed to third reading.

## House Bill 996 on Third Reading

Senator Metcalfe moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 996 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

## Absent—Excused

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

## Absent—Excused

Isbell

## House Bill 603 on Second Reading

On motion of Senator Hill and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 603 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 603, A bill to be entitled "An Act granting permission to John Albert Jordan to bring suit against the State of Texas, in a court of

competent jurisdiction, for damages for personal injuries received by him while a student in the Deaf and Dumb School of the State of Texas, and which injuries are alleged to have produced damages to the said John Albers Jordan; providing that any judgment so recovered to be paid out of the funds of the State of Texas; providing that if any provisions of this Act shall be invalid, that validity of the other provisions thereof shall not be affected, and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 603 on Third Reading

Senator Hill moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 603 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

Absent—Excused

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Hardin
Beck	Head
Brownlee	Hill
Burns	Kelley
Collie	Lanning
Cotten	Lemens
Graves	Martin

Metcalf  
Moffett  
Moore  
Nelson  
Pace  
Redditt  
Roberts  
Shivers  
Small

Spears  
Stone  
of Galveston  
Stone  
of Washington  
Sulak  
Van Zandt  
Weinert  
Winfield

Absent—Excused

Isbell

#### House Bill 997 on Second Reading

On motion of Senator Spears and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 997 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 997, A bill to be entitled "An Act applicable to the County of Kerr, State of Texas, providing the season for taking or attempting to take fish from the fresh public waters of said County, or the tributaries of said waters, and providing suitable penalty for violating any provision of this Act, and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 997 on Third Reading

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 997 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

**Absent—Excused**

Isbell

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

**Yeas—30**

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalfe	Weinert
Moffett	Winfield

**Absent—Excused**

Isbell

**Message from the House**

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate amendments to H. B. No. 971 and requests the Senate for the appointment of a Free Conference Committee to adjust the differences between the two Houses. The following are appointed as conferees on the part of the House: White, Reader of Bexar, Talbert, Cornett, Harper.

The House refused to concur in Senate amendments to H. B. No. 108 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. The following are appointed as conferees on the part of the House: Howard, Stinson, Daniel, Hankamer, Isaacks.

The House has concurred in Senate amendments to H. B. No. 9 by a vote of 75 yeas, 59 noes.

The House has concurred in Senate amendments to H. C. R. No. 90 by a viva voce vote.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

**Conference Committee on House Bill 108**

Senator Van Zandt called up from the President's table, for consideration at this time, the request of the House for a Conference Committee on H. B. No. 108.

Senator Van Zandt moved that the request of the House be granted.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Van Zandt, Moore, Pace, Spears and Graves.

**Senate Bill 19 on Final Passage**

The Senate resumed consideration of pending business, same being S. B. No. 19, relating to pardons and paroles, on its final passage.

Question—Shall the bill be passed?

**Bills Signed**

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills:

H. B. No. 205, "An Act amending Article 1055, of the Code of Criminal Procedure of Texas, 1925, and declaring an emergency."

H. B. No. 967, "An Act to fix maximum rate of tax to be levied for school purposes in all independent school districts which include within their limits a city or town which according to the latest Federal Census had a population of not fewer than 6,200 and not more than 6,225, whether organized under general or special law, repealing all laws in conflict herewith, both general and special, and declaring an emergency."

H. B. No. 980, "An Act providing that Commissioners' Courts in certain counties shall have the power to provide facilities and financial aid to government agencies and bureaus having

activities within the county, and declaring an emergency."

H. B. No. 973, "An Act providing for and fixing compensation of county auditors in certain counties, and declaring an emergency."

H. B. No. 1002, "An Act ratifying, validating and confirming the publication of every ordinance imposing any penalty, fine or forfeiture heretofore passed and approved by any incorporated city or town within the State; providing that this Act shall not affect pending litigation, and declaring an emergency."

S. B. No. 70, "An Act to amend Article 2007 of the Revised Statutes relating to plea of privilege by adding thereto a provision that such plea shall not be construed to embrace any of the matters set forth in Article 2010, Revised Statutes, unless specifically alleged in such plan; repealing conflicting law, except that this amendment shall apply in subsequently filed suits only; and declaring an emergency."

#### At Ease

At 3:00 o'clock p. m. the President announced the Senate would stand at ease for the time being, to give all Members of the Senate the opportunity of attending the ceremony in the House on the occasion of awarding the cross of military service to certain Members of the Legislature who are descendants of Confederate Veterans and who served in the World War.

The President called the Senate to order at 3:50 o'clock p. m.

#### Adjournment

Senator Pace moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion prevailed by the following vote:

#### Yeas—17

Beck	Moore
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Hill	Stone
Lanning	of Washington
Martin	Van Zandt
Metcalfe	Weinert
Moffett	Winfield

#### Nays—6

Aikin	Stone
Graves	of Galveston
Hardin	Sulak
Spears	

#### Absent

Cotten	Nelson
Head	Shivers
Kelley	Small
Lemens	

#### Absent—Excused

Isbell

The Senate, accordingly, at 3:52 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

#### APPENDIX

#### Reports of Committees on Engrossed and Enrolled Bills

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 46 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

Austin, Texas,  
May 1, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 459 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 305 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on En-

grossed Bills, have had S. B. No. 446 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

Austin, Texas,  
May 8, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 70 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

#### SIXTY-FIFTH DAY

(Wednesday, May 10, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tempore Moore.

The roll was called, and the following Senators were present:

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalfe	Winfield
Moffett	

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Weinert, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### Reports of Standing Committees

Senator Weinert submitted the following reports of the Committee on State Affairs:

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 178, by Dwyer, A bill to be entitled "An Act for the purpose of releasing the interest and penalties on all delinquent ad valorem and poll taxes that were delinquent on or before July 1, 1938, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions of the State provided same are paid on or before November 1, 1941, in three (3) installments, the first to be paid November 1, 1939; . . . etc.,"

Have had the same under consideration, and I am instructed by a majority of the Committee to report it back to the Senate with the recommendation that it do not pass.

WEINERT, Chairman.

Austin, Texas,  
May 9, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 180, by Shell, A bill to be entitled "An Act to amend Chapter 23 of the Acts of the Third Called Session of the Thirty-sixth Legislature of the State of Texas, same being an Act entitled: 'An Act to aid the City of Rockport in constructing sea walls, breakwaters, revetments, and shore protections by donating to the city the ad valorem taxes to be collected by the State of Texas on all property and from all persons owning property situated in Aransas County, Texas, for a period of twenty (20) years, and to authorize said City to issue bonds for the purposes mentioned, and to provide a penalty for the misapplication of funds raised therefrom, and to declare an emergency;' by extending the provisions of said Act for a period of forty (40) years from September 1, 1920, and to aid the City of Rockport to pay interest and sinking funds upon outstanding bonds heretofore issued, the proceeds of which have been used exclusively in constructing and maintaining sea walls, breakwaters, and shore protection to protect the City of Rockport and to issue bonds for the purpose of constructing sea walls,